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DANNY WISE # 2866665

A.S.P.C. • YUMA • UNIT • CIBOLA

P.O. BOX 8909

SAN LUIS, AZ 85349

**FILED**

JUN 10 2019

UNITED STATES  
BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

DEBTOR, PRO • SE

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

DANNY WISE AND

WHISPERING WIND PROPERTIES, LLC,

DEBTORS

CHAPTER 7 PROCEEDINGS

CASE NO.: 2:08bk • 15620 MCW

CASE NO.: 2:08bk • 15625 MCW

(JOINTLY ADMINISTERED)

MOTION FOR LEAVE OF THE BANKRUPTCY

COURT TO INCLUDE NAMED PARTIES

IN ANOTHER ACTION

DANNY WISE, DEBTOR PRO • SE, HEREBY REQUESTS THIS COURT GRANT

LEAVE OF THE BANKRUPTCY COURT; TO INCLUDE NAMED PARTIES IN ANOTHER ACTION.

THIS MOTION IS BASED ON THE FOLLOWING MEMORANDUM OF POINTS AND AUTHORITIES.

RESPECTFULLY SUBMITTED THIS 4th DAY OF Jun, 2019.

BY:

*Danny Wise*

DANNY WISE, DEBTOR PRO • SE

SCHEDULE OF PARTIES (INCLUDING APPOINTED, HIRED, RETAINED AND COURT-APPROVED):

MAUREEN GAUGHAN, CHAPTER 7 TRUSTEE;

HONORABLE DAN COLLINS, FORMER PARTNER AT MAY, POTENZA, BARAN,  
AND GILLESPIE, PC;

THEODORE WITTHOFT, PARTNER AT WITTHOFT DERKSEN, PC;

PATRICK DERKSEN, PARTNER AT WITTHOFT DERKSEN, PC;

JOHN FRIES, ESQ., ANDREA PALMER, ESQ., \* RYLEY CARLOCK AND APPLEWHITE  
CITY OF SCOTTSDALE (ARIZONA) POLICE DEPARTMENT

FRANK NAGY, A DETECTIVE OF THE SCOTTSDALE POLICE DEPARTMENT

GUY MILANOVITS, A DETECTIVE OF THE SCOTTSDALE POLICE DEPARTMENT

MARK CARDWELL, AN EMPLOYEE OF FORENTECH, LLC

RICHARD B. MALTZ, AN EMPLOYEE OF DAVID R. MALTZ AND CO., INC.

PETER DAVIS, C.P.A., AN ASSOCIATE AT SIMON CONSULTING

UNITED STATES POSTAL INSPECTION SERVICE

MIRANDA GARCIA, AN EMPLOYEE OF THE UNITED STATES POSTAL INSPECTION SERVICE

ANDREW HATHCOCK, AN EMPLOYEE OF THE UNITED STATES POSTAL INSPECTION SERVICE

PREMIER DOCUMENT SHREDDING

JOHN DOES (U), FEDERAL AGENTS

JANE DOES (U), FEDERAL AGENTS

## FACTUAL BACKGROUND

DEBTOR WAS FORCED INTO AN INVOLUNTARY BANKRUPTCY ON NOVEMBER 3, 2008. (CASE # 2008-15620/15625); ALL RECORDS WERE SEIZED VIA COURT ORDER AND SEARCH WARRANTS. THESE SEIZURES WERE EXECUTED IN MARCH 2009 BY THE BANKRUPTCY TRUSTEE; CITY OF SCOTTSDALE (ARIZONA) POLICE DEPARTMENT, ALONG WITH FEDERAL AGENTS, THEN EXECUTED SEARCH WARRANTS ON APRIL 15 AND APRIL 16, 2009 UPON DEBTORS HOME, OFFICE, STORAGE UNIT, AND THE TRUSTEE'S OFFICE.

IN THE SEIZURES, PARTIES HAD A DUTY UNDER THE LAW TO CREATE AND MAINTAIN A PROPER INVENTORY AND CHAIN OF CUSTODY OF ITEMS SEIZED. DEBTOR HAS NEVER RECEIVED AN INVENTORY OF ITEMS SEIZED, WHICH LEAD TO THE DESTRUCTION OF RECORDS WHICH CONTAINED PROMISSORY NOTES AND FINANCIAL INSTRUMENTS VALUED AT ONE HUNDRED-ONE MILLION, TWO HUNDRED-FIFTY THOUSAND DOLLARS (\$101,250,000<sup>00</sup>). AS NO INVENTORY OR CHAIN OF CUSTODY EXISTS, PARTIES BREACHED THEIR DUTY; THIS WAS A DELIBERATE ACT TO DENY DEBTOR MEANINGFUL AND CONSTRUCTIVE ACCESS TO HIS RECORDS.

PARTIES HAD A DUTY TO APPOINT, HIRE, AND/OR RETAIN COMPETENT PERSONS TO PERFORM THE DUTIES OF A CHAPTER 7 TRUSTEE. AS THE ENTIRE BANKRUPTCY PROCESS INVESTIGATION WAS FLAWED, A FRAUDULENT FINANCIAL STATEMENT WAS PUT ON RECORD. THIS WAS NEGLIGENT AS PARTIES FAILED TO USE REASONABLE CARE, AND ADMITTED IN OPEN COURT THAT THEY DID NOT HAVE ALL NECESSARY BOOKS, RECORDS, AND FILES, YET THE REPORT WAS USED AS EVIDENCE IN THE BANKRUPTCY PROCEEDING. THEY HAD ALL THE RECORDS; THEIR CHOICE NOT TO USE THEM WAS NEGLIGENT AND DELIBERATE.

DEBTOR MADE NUMEROUS REQUESTS TO PARTIES TO OFFER HIS COOPERATION TO RESOLVE THE BANKRUPTCY AMICABLY. DEBTOR DID MEET WITH PARTIES ON ONE OCCASION AND ANSWERED ALL QUESTIONS IN FULL COOPERATION. EVEN WITH THIS INFORMATION, PARTIES DID NOT REVISE THE REPORT SUBMITTED, AND FAILED TO INVESTIGATE OWNERSHIP OF COMPANIES LISTED IN THE BANKRUPTCY OR PAYMENTS TO DEBTORS FAMILY MEMBERS FROM DEBTORS

1 LATE MOTHERS ESTATE. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND ETHICS TO MAINTAIN  
2 INTEGRITY WERE NOT USED.

3 DEBTORS PROPERTY WAS TRANSFERRED FROM DIFFERENT PARTIES CUSTODY WITHOUT  
4 A PROPER CHAIN OF CUSTODY (IN VIOLATION OF A COURT ORDER), LEADING TO ITS DESTRUCTION  
5 AND PLACING DEBTOR IN FINANCIAL RUIN. DEBTOR HAS CONTINUED TO REQUEST INVENTORIES  
6 FROM PARTIES, GOING SO FAR AS TO PETITION THE COURT TO COMPEL PARTIES TO SHOW CAUSE  
7 FOR THE DESTRUCTION. THE TOTAL DISREGARD FOR THE COURT ORDER LEAD TO THE WANTON  
8 DESTRUCTION OF DEBTORS PROPERTY. DEBTOR IS IN POSSESSION OF OFFICIAL CORRESPONDENCE  
9 IN WHICH A PARTY CLEARLY STATES THEY ARE AWARE OF INSTRUCTION AND BANKRUPTCY  
10 RULES TO MAINTAIN AND NOT DESTROY THE PROPERTY,

11 DEBTORS PROPERTY WAS DESTROYED, DAMAGED, AND NOT RETURNED TO DEBTOR, A  
12 BREACH OF DUTY BY ALL PARTIES WHO FAILED TO INSURE DUE PROCESS IN THE PROCEEDINGS.  
13 THIS NEGLIGENCE BY PARTIES LED TO THE DESTRUCTION OF DEBTORS PROPERTY, THE LOSS OF  
14 ONE HUNDRED ONE MILLION, TWO HUNDRED FIFTY THOUSAND DOLLARS IN PROMISSORY NOTES  
15 AND FINANCIAL ASSETS, AND THE NECESSARY WITNESSES TO PROPERLY DEFEND HIMSELF DURING  
16 THE PROCEEDINGS AND ANY RECOURSE AVAILABLE TO DEBTOR.

## 17 18 CONCLUSION

19 PURSUANT TO THE BARTON DOCTRINE, ADOPTED BY THE SUPREME COURT IN  
20 BARTON V BARBOUR, 104 U.S. 126 (1881), A BANKRUPTCY TRUSTEE CANNOT BE SUED FOR ACTS  
21 DONE IN ADMINISTERING THE BANKRUPTCY ESTATE WITHOUT LEAVE OF THE BANKRUPTCY COURT.  
22 DEBTOR IS REQUESTING SUCH LEAVE FOR THIS MOTION. NAMED PARTIES KNEW THE LAW AND  
23 CHOSE TO ACT CONTRARY TO LAW, RULES, AND POLICIES (SEE EXHIBIT A).

CERTIFICATE OF SERVICE

ORIGINAL MAILED ON THIS 4<sup>th</sup> DAY OF June, 2019 TO:

\* CLERK OF THE COURT

U.S. BANKRUPTCY COURT - ARIZONA

230 N. 1<sup>ST</sup> AVENUE

PHOENIX, ARIZONA 85003

COPY OF THE FOREGOING MAILED ON THIS 4<sup>th</sup> DAY OF June, 2019 TO:

\* HONORABLE MADELEINE WANSLEE

230 N. 1<sup>ST</sup> AVENUE

PHOENIX, ARIZONA 85003

BY:

Danny Wise

DANNY WISE, DEBTOR PRO SE

EXHIBIT

A

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:  US Trustee 230 N 1st Ave Suite 204 Phoenix, Arizona 85003			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.  Danny Wise c/o ASPC - Yuma- Cibola Unit PO Box 8909 San Luis, Arizona 85349		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		4. DATE OF BIRTH August 5, 1956	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 2-26-18	
7. TIME (A.M. OR P.M.)					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  See attached pages <u>BC 1-3</u>					
<b>9. PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).  					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).  See attached pages - <u>property</u>					
<b>10. PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.  N/A					
<b>11. WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code).			
see Attached pages					
<b>12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)</b>					
12a. PROPERTY DAMAGE  101,250,000.00		12b. PERSONAL INJURY  123,750,000.00		12c. WRONGFUL DEATH  N/A	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights).  225,000,000.00	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM		14. DATE OF SIGNATURE
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)  
PRESCRIBED BY DEPT. OF JUSTICE  
28 CFR 14.2

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
<b>1. Submit to Appropriate Federal Agency:</b>  Maureen Gaughan, <i>Chapter 7 Trustee</i> P.O. Box 6729 Chandler, AZ 85246			<b>2. Name, address of claimant, and claimant's personal representative if any.</b> (See instructions on reverse). Number, Street, City, State and Zip code.  Danny Wise c/o ASPC - Yuma- Cibola Unit PO Box 8909 San Luis, Arizona 85349		
<b>3. TYPE OF EMPLOYMENT</b> <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	<b>4. DATE OF BIRTH</b> August 5, 1956	<b>5. MARITAL STATUS</b> Single	<b>6. DATE AND DAY OF ACCIDENT</b> 2-26-18	<b>7. TIME (A.M. OR P.M.)</b>	
<b>8. BASIS OF CLAIM</b> (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  See attached pages <u>AC 1-3</u>					
<b>9. PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).  BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).  See attached pages - <i>property</i>					
<b>10. PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.  N/A					
<b>11. WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
<i>(see witness list)</i>					
<b>12. (See instructions on reverse).</b> <b>AMOUNT OF CLAIM</b> (in dollars)					
<b>12a. PROPERTY DAMAGE</b>  101,250,000.00	<b>12b. PERSONAL INJURY</b>  123,750,000.00	<b>12c. WRONGFUL DEATH</b>  N/A	<b>12d. TOTAL</b> (Failure to specify may cause forfeiture of your rights).  225,000,000.00		
<b>I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.</b>					
<b>13a. SIGNATURE OF CLAIMANT</b> (See instructions on reverse side).			<b>13b. PHONE NUMBER OF PERSON SIGNING FORM</b>		<b>14. DATE OF SIGNATURE</b>
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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28 CFR 14.2



### INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

### INSTRUCTIONS

**Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.**

**Complete all items - Insert the word NONE where applicable.**

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

### PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.  
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.  
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

### PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

STANDARD FORM 95 REV. (2/2007) BACK

# Basis For Claim

1. On November 3, 2008 claimant was notified that the persons I owed money to had filed an action in the U.S. Bankruptcy Court to force my ex-wife and I into involuntary bankruptcy. The claimant<sup>was</sup> not to take any assets or sell anything, and to leave all assets alone. (2008-BK-15620- 15625)
2. On December 11, 2008, I met with bankruptcy attorneys and presented a payment plan to them that would pay all person back by the first of January 2009, and they rejected it, saying they wanted it paid that day (December 11, 2008).
3. On February 26, 2009 a federal bankruptcy trustee was appointed, Maureen Gaughan.
4. On February 27, 2009 the trustee's attorney, Dan Collins, who is now the Honorable Dan Collins in the U.S. Bankruptcy Court, arrived at my Scottsdale home to inventory the contents.
5. Claimant asked Collins when he wanted to travel to my Flagstaff and New York City homes and he told me it wasn't necessary at this time. I would be contacted later to do this.
6. On about March 2009 the U.S. Bankruptcy trustee began taking control of all claimant's assets, bank accounts, hedge funds, trust accounts (including Children's trusts), retirement accounts, homes, home furnishings, businesses, business equity, notes receivable, wife's jewelry, paper, financial records and storage unit. Claimant no longer had access to any properties, bank accounts or others assets.
7. Search warrants on my home, office, and storage unit were executed on April 15, 2009.
8. A search warrant was executed at the U.S. Bankruptcy Trustee's office on April 16, 2009.
9. There was no inventory of the contents of the banker Boxes, nor was there an inventory/index showing which Boxes came from which location.
10. In my New York apartment, the Trustee, seized all the home furnishings, including a desk and ottoman where I kept business files and promissory notes with over \$100 million in value, as well as \$30 thousand in cash.
11. Claimant learned that the contents of the desk had not been inventoried, along with the computer, thumb drives, clothing and ottoman had not been inventoried and the items therein lost. This includes \$30 thousand in cash and \$101,250,000 in promissory notes for business deals. (See exhibit 14)
12. I attempted numerous times to inquire into the notes and tried to get them in order to cash them out and pay all my bills, but Bankruptcy trustee and the Court refused to let me be involved with the case or share information with me.
13. When claimant began going through the bankruptcy process I learned that Andrew Moore "40% owner in Whispering Winds Properties" had also embezzled over \$60 thousand from me in one of the jointly owned business accounts.
14. After the hiring of David Dow, Esq. he arranged a meeting with Dan Collins, Ted Witthoff, Patrick Derksen, Maureen Gaughan, trustee, and Peter Davis, CPA held at Dan Collin's office on March 7, 2012.

15. At that meeting, Mr. Peter Davis stated to me "I know I do not have all the books and records".
16. At that meeting I answered many questions asked of me.
17. At that meeting, Dan Collins informed Mr. Dow and myself that the S.E.C. had also put a duplicate claim into my bankruptcy. Mr. Collins recognized that this needed to be corrected prior to the creditors being paid, but never was.
18. Mr. Dow asked if a number was available to pay off the entire bankruptcy.
19. We were told they would get back to us, but they never did.
20. In November 2012, I engaged Mr. Don Fletcher to try help resolve the bankruptcy issue to allow me to pay off all my creditors at 100% of their money.
21. On November 7, 2011, Peter Davis of Simon Consulting issued a financial statement that states on Page #5, "The trustee's investigation of recoveries is ongoing. Discovery is ongoing. Simon reserves the right to update its report should additional information be provided". That report was for the period January 1, 2006 – November 3, 2008.
22. On June 3, 2014, attorney Witthoff stated in a court hearing that he didn't have all the records
23. Claimant had requested from Gaughan on eighteen (18) different occasions, files, records, and investigative reports and was ignored each time.
24. Claimant wrote the US Trustee – Arizona Office five (5) times and was ignored each time.
25. Claimant wrote Peter Davis, CPA of Simon Consulting and was ignored.
26. Claimant wrote the State Board of Accountancy requesting they compel Davis to turnover working papers and had a telephonic hearing, which State Board said to contact the Trustee, as the Trustee hired Davis.
27. Claimant owed the Internal Revenue Service approximately \$470,000, yet the Trustee paid the IRS \$620,000
28. There was never proof of a "Ponzi Scheme" for many reasons:
  - a. Claims were never fully traced (financial reports January 1, 2006 – November 3, 2018
  - b. Davis, Collins and Witthoff all admitted to not having all the records
  - c. Allegations of "Ponzi Scheme" were to only set "claw backs" to have CPA, Attorneys, and other administrative fees paid.
  - d. Many boxes not even opened (See exhibit 15)
29. Trustee Gaughan never communicated with the auctioneer in New York City who destroyed financial records stored in the NYC apartment. These records should have been reviewed as part of the entire involuntary bankruptcy case. (See exhibit 14)
30. Attorneys, Collins and Witthoff allowed an incomplete report to be part of the record instead of attempting to gather all necessary documents to complete the report.
31. Trustee's conduct, along with Collins, Witthoff and Davis, denied claimant the ability to recover the assets from his financial records that are now destroyed. Trustee also has denied claimant access to personal papers and records without due process and in direct violation of their fiduciary duties and Claimant's constitutional rights and created liberty interest.
32. On May 6, 2014 the US Trustee filed a motion for authority to transfer custody of documents in the US Bankruptcy Court, District of Arizona. (See exhibit 1 )

33. On June 16, 2014 the US Bankruptcy Court issued an order granting the Trustee's motion from above. (See exhibit 2 )
34. These documents were received by the US Postal Inspection Service on July 14, 2014. (See exhibit 3 )
35. Per the attached order (exhibit 2 ), the Department of Justice shall comply with the requirements set forth by the DOJ handbook for Chapter 7 Trustees (maintain those documents for two years after the close of the bankruptcy case(s)).
36. In a letter dated January 19, 2017 addressed to the claimant, the US Postal Service advised the claimant that these document were to be picked up within 30 days or those documents (approximately 200 boxes) will be destroyed. (See exhibit 4 ).
37. In a letter dated January 30, 2017, claimant explained that he was incarcerated and it would be impossible to pick these documents up. Claimant also informed the US Postal Service that those documents were important to my "Post-Conviction Relief Petition" presently in the Supreme Court of Arizona, (Case No. CR 18-0237) (See exhibit 5) ~~6~~
38. After several unanswered phone calls to the US Postal Inspection service by claimant, he then wrote another letter to the USPIS dated April 25, 2017 again asking for the same information. This was also after claimant's son contacted the USPIS requesting the same information (See exhibit 6 )
39. Claimant reviewed a letter from the USPIS dated May 23, 2017 stating that after their review of the records ( the above motion and order) they conclude that the USPIS is responsible to maintain those documents for two (2) years from the Involuntary bankruptcy case(s) were closed, which was November 1, 2016. Therefore on November 2, 2018 the USPIS will shred all the documents (See exhibit 7 )
40. In a letter dated July 11, 2017 written to claimant's son and copied to claimant, the USPIS notified claimant that he had 30 days to take physical custody of the materials. This letter was written 49 days after the USPIS stated they were responsible for maintaining these documents for two (2) years after Involuntary Bankruptcy case(s) were closed (See exhibit 8 )
41. In a letter dated July 30, 2017, claimant requested the USPIS either maintain custody of such documents ( Stated in "40" above) or send all documents to claimant directly. (See exhibit 9 )
42. In a letter dated August 10, 2017 claimant wrote to the USPIS another letter requesting the USPIS maintain custody of these documents. (See exhibit 10 )
43. In a letter dated August 11, 2017 received from the USPIS, it was written that all documents were destroyed (See exhibit 11 )
44. Claimant than filed a request under the Freedom of Information Act, for the same information previously requested in the several letters and on January 16, 2018 claimant did receive some of the information requested along with many e-mails between various government agencies explaining to one another the necessity to maintain these documents, under the law and court order. Included in these e-mails are statements that these documents are to be maintained for two (2) years after the Involuntary bankruptcy and also maintained until the claimants appeal is over (See exhibit 12 ) and also "43" above.
45. In a letter dated February 26, 2018, the USPIS answered some additional questions and sent a copy of the Certificate of Destruction of said documents (See exhibit 13 )

Witnesses

MAUREEN GAUGHAN, Trustee

PO Box 6729

Chandler, ARIZONA 85246

Richard Malte, Auctioneer

39 Windsor Place

Central Islip, NY 11722

HON DAN COLLINS

230 No 1<sup>st</sup> Ave

Phoenix, AZ 85003

Peter Davis % Simon Consulting

3200 No Central Ave #2460

Phoenix, ARIZONA 85012

Theodore Witthoft, Esq

3550 No Central Ave, Suite 1006

Phoenix, ARIZONA 85012

Premiere Document Shredding

2204 W. 1<sup>st</sup> Street

Tempe ARIZONA 85281

Patrick Derksen, Esq

3550 No Central Ave, Suite 1006

Phoenix, ARIZONA 85012

Mark Caldwell, Forentech LLC

4429 E. Flower St.

Phoenix, AZ 85048

Howard Silverman

15 W. 53<sup>RD</sup> Street #18F

New York, NY 10017

FRANK Nagy

3939 Drinkwater Blvd.

Scottsdale, ARIZONA

Jeremy L Wise

348 Medford St. #1

Charlestown, Mass 02129

Guy Milanovits

3939 Drinkwater Blvd.

Scottsdale, ARIZONA

MARYANN MCKESSY, Deputy County Attorney

301 West Jefferson

Phoenix, Arizona 85003

M GARCIA, % DSPIS

111 West Monroe

Phoenix, Arizona 85003

Andrew Hatkock, % DSPIS

111 West Monroe

Phoenix, Arizona 85003

Property

Value of promissory notes

# 101,250,000.

Other personal injury claim

123,750,000.

# 225,000,000.

1 Theodore P. Witthoft (State Bar Id No. 021632)  
Patrick T. Derksen (State Bar Id No. 023178)  
2 **MAY, POTENZA, BARAN & GILLESPIE, P.C.**  
201 North Central Avenue, Suite 2210  
3 Phoenix, Arizona 85004-0022  
Telephone: (602) 252-1900  
4 Facsimile: (602) 252-1114  
Email: twitthoft@maypotenza.com  
5 Email: pderksen@maypotenza.com

6 Attorneys for Chapter 7 Trustee, Maureen Gaughan

7 **UNITED STATES BANKRUPTCY COURT**  
8 **DISTRICT OF ARIZONA**

9 In re:

10 WHISPERING WINDS PROPERTIES, LLC,  
11 and DAN WISE,

12 Debtors.

Chapter 7

Case No. 2:08-bk-15620-MCW

Case No. 2:08-bk-15625-MCW

(Jointly Administered)

13 **TRUSTEE'S MOTION FOR**  
14 **AUTHORITY TO TRANSFER**  
15 **CUSTODY OF DOCUMENTS**  
16  
17  
18  
19

20 The Chapter 7 trustee, Maureen Gaughan ("Trustee"), by and through her attorneys, May,  
21 Potenza, Baran & Gillespie, P.C., hereby submits the *Trustee's Motion for Authority To*  
22 *Transfer Custody of Documents* ("Motion"). The Trustee seeks Court authority to transfer  
23 custody of certain documents described herein to the United States Department of Justice  
24 ("DOJ"). This Motion is supported by the accompanying Memorandum of Points and  
25 Authorities and the entire record before the Court, all of which are incorporated herein by this  
26 reference.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **BACKGROUND**

3 1. On November 3, 2008 (the "Petition Date") involuntary Chapter 7 bankruptcy  
4 petitions were filed against Whispering Winds Properties, LLC ("WWP") and Dan Wise at case  
5 numbers 2:08-bk-15620-RJH and 2:08-bk-15625-RJH, respectively. On December 2, 2008, the  
6 Court entered its Order directing the bankruptcy cases be jointly administered.

7 2. On February 24, 2009, Maureen Gaughan was appointed Chapter 7 trustee of the  
8 bankruptcy cases of WWP and Dan Wise.

9 3. By Order of the Bankruptcy Court dated June 22, 2010, the following entities  
10 controlled by Dan Wise were substantively consolidated into the Dan Wise bankruptcy estate:  
11 WWP; LM Beagle Properties, LLC; Karlena, Inc.; Axis International, Inc.; Jerilou, Inc.;  
12 J.U.S.T.Y., Inc.; 14 Casa Associates, LLC; Three Jay's, LLC; Wildlife Properties, LLC; Wilan  
13 Holdings, LLC; Folden Holdings, LLC; DKW Properties, LLC; Two Soles Holdings, LLC; East  
14 Central Park Holdings, LLC; DRL Promotions, LLC; Santa Barbara Management, LLC; Tarise  
15 Holdings, LLC; and Compadre, LLC (collectively, the "Dan Wise Entities"). The Dan Wise  
16 Entities and Dan Wise are referred to herein collectively as "Wise" or "Debtor."

17 4. After the Petition Date, the Scottsdale Police Department ("SPD") took possession  
18 of numerous boxes of Debtor's documents.

19 5. The SPD turned over to the Trustee a portion of the documents the SPD seized  
20 (the "Documents"). The Documents were stored in a unit leased from A Advance Self Storage  
21 located at 301 W. Indian School Phoenix, Arizona. See, Order entered on August 5, 2009 at  
22 Docket No. 249.

23 6. On or about April 17, 2012, a federal grand jury indicted Dan Wise on 102  
24 charges of mail fraud, wire fraud and money laundering in the United States District Court for  
25 the District of Arizona, Case No. 2:12-cr-00788-ROS-1 (the "Federal Criminal Proceeding").  
26



1           7.     The Trustee is in the process of finalizing the administration of this bankruptcy  
2 estate.

3           8.     The Trustee proposes to transfer custody of the Documents to the DOJ, which has ✓  
4 agreed to store the Documents as custodian at a designated location.

5                               **LEGAL ARGUMENT**

6           9.     Pursuant to 11 U.S.C. § 105(a), the court may issue any order, process, or  
7 judgment that is necessary or appropriate to carry out the provisions of this title. Among other  
8 things, transferring custody of the Documents to the DOJ is one of the final steps of  
9 administering this bankruptcy estate.

10          10.    Transferring custody of the Documents to the DOJ will facilitate preservation of ✓  
11 and access to the Documents to a party in interest.

12          11.    Upon the entry of an Order approving this Motion, the DOJ will have the sole ✓  
13 responsibility for storing and providing reasonable access to the Documents.

14          12.    The bankruptcy estate and other parties in interest will be best served if this Court  
15 approves this Motion as outlined above. Transferring custody of the Documents to the DOJ will  
16 also allow the bankruptcy estate to avoid the burden of additional costs of storage of the  
17 Documents.

18                               **CONCLUSION**

19          WHEREFORE, for the reasons set forth herein, the Trustee respectfully requests the  
20 Court enter its Order approving this Motion and authorizing the Trustee to transfer custody of  
21 the Documents to the DOJ.

22          Respectfully submitted this 6<sup>th</sup> day of May, 2014.

23                               **MAY, POTENZA, BARAN & GILLESPIE, P.C.**

24  
25                               By /s/ Theodore P. Witthoft                               #021632

26                               Theodore P. Witthoft  
                              Patrick T. Derksen  
                              Attorneys for Maureen Gaughan, Trustee

SO ORDERED.

Dated: June 16, 2014



*Madeleine C. Wanslee*  
Madeleine C. Wanslee, Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA

In re:

WHISPERING WINDS PROPERTIES, LLC,  
and DAN WISE,

Debtors.

Chapter 7

Case No. 2:08-bk-15620-MCW  
Case No. 2:08-bk-15625-MCW  
(Jointly Administered)

**ORDER GRANTING TRUSTEE'S  
MOTION FOR AUTHORITY TO  
TRANSFER CUSTODY OF  
DOCUMENTS**

This matter having been brought by the *Trustee's Motion for Authority to Transfer Custody of Documents* ("Motion") filed by the Chapter 7 trustee, Maureen Gaughan ("Trustee"); the Dan Wise ("Debtor") having filed a response to the Motion with the Bankruptcy Court; the Court having held a hearing on the Motion on June 3, 2014 ("Hearing"); the Court having considered the Motion and the arguments of the parties at the Hearing, and good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

A. The Motion is GRANTED;

B. The Trustee is authorized to transfer custody of the documents described in the Motion ("Documents") to the Department of Justice ("DOJ"); and

1 C. In regard to the Documents, the DOJ shall comply with the retention requirements  
2 set forth the U.S. Department of Justice *Handbook for Chapter 7 Trustees*; ✓

3 D. Any party-in-interest that has an inquiry regarding the Documents shall direct such  
4 inquiry to:

5  
6 U. S. Postal Inspection Service c/o Andrew P Hathcock

7 111 Monroe St., Ste 900, Phoenix, AZ 85003

8 602-223-3255

9 APHathcock@uspis.gov

10  
11 E. The Trustee shall mail a copy of this Order to the parties listed on the master  
12 mailing list and the Debtor and file a certificate of mailing with the Bankruptcy  
13 Court

14  
15 **DATED AND SIGNED ABOVE**



UNITED STATES POSTAL INSPECTION SERVICE

OFFICE OF COUNSEL

February 26, 2018

Mr. Danny Wise  
ADC #286665  
Arizona State Prison Complex Yard, Unit Cibola  
P.O. Box 8909  
San Luis, AZ 85349-6836

RE: FOIA No. 2018-FPIS-00211

Dear Mr. Wise:

This is in further reference to your letter dated February 9, 2018, requesting, pursuant to the Freedom of Information/Privacy Acts, access to certain records that may be in the custody of the U.S. Postal Inspection Service regarding your case.

With respect to question "1) Your letter states there were 272 pages when in fact I received 263. Why the difference?" Please be advised that the Freedom of Information Act is a records and documents statute that permits access only to federal agency records, not information, and does not require us to answer question, however, in order to verify the page count you may send the documents back in order for me to do a page count and decipher if anything is missing.

Regarding question "2) I did review the Trustee's Motion to transfer custody of documents dated May 6<sup>th</sup>, 2014, but what was the exact day the Postal Service received such documents?" Please be advised that the Freedom of Information Act is a records and documents statute that permits access only to federal agency records, not information, and does not require us to answer question, however, as a courtesy I will inform you that the boxes were received on July 14, 2014.

Concerning question "3) I did see the inventory listing from Scottsdale Police Department, but I would like to see the inventory listing your office has of the incoming documents received." Please be advised that the Freedom of Information Act is a records and documents statute that permits access only to federal agency records, not information, and does not require us to answer question, however, as a courtesy I will inform you that no inventory was done of the documents received and you previously were informed of this in a letter to you dated August 14, 2017. ✓

In response to question "4) I did not receive a Certificate of Destruction of these materials. Please provide that to me, which would also correspond to your letter

475 L'ENFANT PLAZA, SW, ROOM 3301  
WASHINGTON, DC 20260-2101  
TELEPHONE: 202-268-7004  
EMAIL: FOIA@USPIS.GOV  
FAX: 202-268-4538



UNITED STATES POSTAL INSPECTION SERVICE

PHOENIX DIVISION

January 19, 2017

Case No. 1775846

Danny Wise, #286665  
ASPC - Yuma Cibola  
PO Box 8909  
San Luis, AZ 85349

Dear Mr. Wise:

In July 2014, documents previously in your possession were given voluntarily to the United States Postal Inspection Service. These items include:

- Approximately 200 bankers boxes of documents containing financial documentation

The Inspection Service would like to return these items to you if you should want them. In order to release these items, you must make arrangements to contact me or have your authorized representative contact me as a signature is required. Attached you will find a letter of authorization to designate an individual of your choice to pick up the property listed above. You must sign and return the consent form in the enclosed envelope and return it to me. The designated individual must show identification at the time the property is released. You or your designated representative have 30 days from the date of this letter to pick up these items, after which time, they will be considered abandoned and either forfeited or destroyed.

By picking up these items or signing the enclosed form to have an authorized representative do so on your behalf, you are consenting to the removal of all personal identifying information from the listed property as the items may contain information you or your designated representative are not authorized to possess.

Thank you for your assistance in this matter.

Sincerely,

(b)(6),(b)(7)(C)

Postal Inspector  
111 W. Monroe, Suite 900  
Phoenix, AZ 85003

(b)(6)

PHOENIX FIELD OFFICE  
111 W. MONROE, SUITE 900  
PHOENIX AZ 85003  
TELEPHONE: 602 223-3298  
FAX: 602 258-4995

EXH 43



UNITED STATES POSTAL INSPECTION SERVICE

---

**PHOENIX DIVISION**

**January 19, 2017**

**I, Danny Wise, authorize the following individual to act as my authorized agent and pick up items of personal property now in the possession of the United States Postal Inspection Service including:**

- **Approximately 200 bankers boxes of documents**

---

**\*Name of Authorized Agent**

---

**Danny Wise**

---

**Date**

**\*Must show identification at the time property is released.**

PHOENIX FIELD OFFICE  
111 W. MONROE, SUITE 900  
PHOENIX AZ 85003  
TELEPHONE: 602 223-3298  
FAX: 602 258-4995

DAILY USE #28665

ASAC - Y - CIBOLA

P.O. BOX 8909

SAN LUIS, AZ 85349

JANUARY 30, 2017

US POSTAL INSPECTIONS SVL.

111 W. MONROE, SUITE 900

PHOENIX, AZ 85003

RE: LOOSE NO: 1775846

DEAR MR GARCIA:

I'm in receipt of your letter dated January 17, 2017 regarding documents in the US Postal's possession. To be clear, I didn't give these documents to the Postal Service, nor do I know who did. Please provide me information as to who did give these documents to you. As I'm presently incarcerated, it is impossible to pick these banker boxes up!

Due to my ongoing "Artisan and artist conviction" in my State Criminal Court, I would request you still maintain custody of these documents until such time my appeal rights are done.

Please consider with me the accounts you will be taking

Sincerely,

Donna Linda  
Daily Use

cc: LRR, ESP

BLR, ESP

APRIL 25, 2017

US POSTAL INSPECTION SERVICE

ATTN: M. GARCIA

111 W. HAYWOOD, SUITE 900

PHOENIX, ARIZONA 85003

RE: OGS NO 1775846

DEAR M. GARCIA:

IT IS MY UNDERSTANDING YOU WERE RECEIVED MY LETTER DATED JANUARY 30, 2017. I ALSO HEARD YOU SPOKE WITH MY SON LAST WEEK. PLEASE CONFIRM TO ME, IN WRITING, THE EXACT STATUS OF MY FUNDING REWARDS. WHO DROPPED THEM OFF, WHEN THE POSTAL SERVICE ACCEPTED THESE BOXES, INVENTORY OF SUCH BOXES, AND WHAT THE US POSTAL SERVICE INTENDS TO DO WITH THESE BOXES. THIS REQUEST IS VERY URGENT SO PLEASE PROVIDE ME THE INFORMATION ASAP!

YOUR PROMPT ATTENTION IS HIGHLY APPRECIATED. YOU WERE MY ADDRESS BASED ON YOUR JANUARY 19, 2017 LETTER TO ME.

SINCERELY,



DANNY WISE

cc: L-R, ESS

BLP, ESS





UNITED STATES POSTAL INSPECTION SERVICE

PHOENIX DIVISION

May 23, 2017

Case No. 1775846

Danny Wise, #286665  
ASPC - Yuma Cibola  
PO Box 8909  
San Luis, AZ 85349

Dear Mr. Wise:

In my letter dated January 19, 2017 I informed you of approximately 200 bankers boxes currently in possession of the United States Postal Inspection Service (USPIS). I am in receipt of your letters dated January 30, 2017 and April 25, 2017. To address your letters, we received the above mentioned documents during the course of your bankruptcy proceedings.

At the time I authored my letter dated January 19, 2017, I was unaware of the above mentioned Motion and Order. Since that time, my agency, together with the United States Attorney's Office, District of Arizona, have researched the matter, and conclude the USPIS is responsible to maintain these documents for two years from the date the bankruptcy case(s) were closed, which was November 1, 2016. On November 2, 2018 the USPIS will shred all of the documents contained within the approximately 200 boxes currently in our possession.

As has been the case the entire time the USPIS has been in possession of these documents, your legal counsel will have access to the documents; they need only contact me.

Sincerely,

(b)(6);(b)(7)(C)

Postal Inspector  
111 W. Monroe, Suite 900  
Phoenix, AZ 85003

(b)(6);(b)(7)(C)

PHOENIX FIELD OFFICE  
111 W. MONROE, SUITE 900  
PHOENIX AZ 85003  
TELEPHONE: 602 223-3298  
FAX: 602 258-4995

EX-117



**UNITED STATES POSTAL INSPECTION SERVICE**

**PHOENIX DIVISION**

**July 11, 2017**

**Case No. 1775846**

**Mr. Jeremy Wise  
365 Silver Street  
Boston, MA 02127**

**Dear Mr. Wise:**

**This letter is to notify you that you will have thirty (30) days to take physical custody of the materials seized from your father, which amount to approximately 200 boxes of material.**

**If you fail to take physical custody of these documents within thirty (30) days of the date of this letter arrangements will be made to destroy the material.**

**I must advise you that as a Certified Public Accountant you may be bound by the provisions of Arizona Revised Statutes Chapter 32 Section 744 which prohibits the disclosure of client records.**

**Please contact me when you have arranged a date to appear in person to take custody of the material.**

**Sincerely,**

(b)(6); (b)(7)(C)



**Postal Inspector**

**cc: Danny Wise, #286665  
ASPC - Yuma Cibola  
PO Box 8909  
San Luis, AZ 85349**

PHOENIX FIELD OFFICE  
111 W. MONROE, SUITE 900  
PHOENIX AZ 85003  
TELEPHONE: 602 223-3298  
FAX: 602 258-4995

July 30, 2017

Ms. Karen Brown  
of US Ashli Tractor Service  
111 W. Monroe, Suite 200  
Pawnee, Nebraska 68393

Re: Case No. 1775896

Dear Ms. Brown:

I'm in receipt of your most recent letter dated July 14, 2017, regarding to my son, where you informed me that he was injured (2) ways to take physical custody of THIS SUBJECT'S I do not give him or anyone else permission to receive this information. As you know, I'm personally unemployed and I would be unable to pay the cost to track down my child or be available to send him back to me. I still have not heard from you regarding info about them to the area services, and appears you directed them from case services. I know there is discussion during the concerns and the relatives that mentioned these things to me, please provide that info to me. As soon as you can, as my current condition is still making me question Court-Mandated, please answer questions to this number: 602-444-4444

MLB  
9/8/2017

9/8/2017

Sincerely,  
[Signature]  
Case No. 1775896

cc: [Name], [Name]  
BLS, [Name]

August 10, 2017

Ms. Mariana Garcia

Postal Inspector

111 W. Monroe, Suite 900

Phoenix, AZ 85003

Re Case No 1795846

Dear Ms. Garcia

Another attempt to get an answer from you regarding the status of the materials being held by you and your office. As per my letters were stated, I have a pending material being on regarding my current criminal case. I've requested you maintain custody of such boxes until the material is finally ruled on.

I give no-one authorization to pick-up these boxes, as per many reasons; they should be maintained by you and your office. I still request - when you receive this material, who gives them to you, and an inventory of what boxes you have.

Please respond to me regarding all this information as my son was only available to call you and has nothing to do with these boxes and their contents.

Sincerely,

Mariana Garcia

CC: Tessa, GAO  
LPR, ESR  
BPR, ESR

8/19/17  
no-  
wrote



**UNITED STATES POSTAL INSPECTION SERVICE**

**PHOENIX DIVISION**

**August 14, 2017**

**Case No. 1775846**

**Mr. Danny Wise, #286665  
ASPC - Yuma Cibola  
PO Box 8909  
San Luis, AZ 85349**

**Dear Mr. Wise:**

To address your letters, my agency received the approximately 200 bankers boxes from your bankruptcy trustee per a court order. An inventory of the material never existed, so I am unable to provide that information to you. ✓

On August 11, 2017 all of the materials were destroyed per my letter dated July 11, 2017.

**Sincerely,**

**(b)(6);(b)(7)(C)**

**Postal Inspector**

PHOENIX FIELD OFFICE  
111 W. MONROE, SUITE 900  
PHOENIX AZ 85003  
TELEPHONE: 602 223-3298  
FAX: 602 258-4995

*edit 11/1*

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, April 27, 2017 11:20 AM  
**To:** (b)(6);(b)(7)(C) - Phoenix, AZ  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** RE: Dan Wise

Hi (b)(6);(b)(7)(C)

The boxes that were seized were related to his accounting business, as he was forced into bankruptcy.

We do not want them back, but they may be required to go back to the trustee.

Thanks



Detective (b)(6);(b)(7)(C)  
Scottsdale Financial Crimes Unit  
Scottsdale Police, Arizona

(b)(6);(b)(7)(C)

**From:** (b)(6);(b)(7)(C) - Phoenix, AZ (b)(6);(b)(7)(C)  
**Sent:** Wednesday, April 26, 2017 12:41 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C) - Phoenix, AZ  
**Subject:** Dan Wise

Hello (b)(6);(b)(7)(C)

I inherited a case a long, long time ago involving Dan Wise. I was not a part of this case when it started but from reading historical documents, I know Scottsdale PD executed several search warrants years ago on his house/business, etc. I know Wise went to trial and was sentenced to 35 years and very recently lost his appeal.

I know the US Attorney's Office was looking into bringing federal charges against him as well but once they learned he received such a lengthy prison sentence, they declined to prosecute.

With that said, at some point in time, Scottsdale PD turned over several bankers boxes of documents to a Bankruptcy Trustee (Wise was apparently going through bankruptcy during this time). The bankruptcy trustee then turned those boxes of documents over to the US Postal Inspection Service in 2014 to be used in a potential federal case against Wise.

Since there is not going to be a federal case against Wise, I am curious if Scottsdale PD wants these documents back? I know Wise recently filed a Motion for Reconsideration so I am not sure if your agency is hanging on to everything or if your agency has destroyed everything in his case already. I have attached the Motion and Order which state the boxes of documents I currently possess were given to the bankruptcy trustee by Scottsdale PD. ✓

PS. I am not talking about 5 or 10 bankers boxes. I have approximately 200 bankers boxes.

If Scottsdale PD does not want these items back, I will move forward in determining how to get rid of them. If your agency does want them, I am more than happy to arrange a truck to bring them to the location of your choosing.

I look forward to hearing from you.

(b)(6)(b)(7)(C)

U.S. Postal Inspector

(b)(6)(b)(7)(C)

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6)(b)(7)(C)  
**Sent:** Tuesday, May 02, 2017 7:20 PM  
**To:** (b)(6)(b)(7)(C) - Phoenix, AZ  
**Cc:** (b)(6)(b)(7)(C) (USAAZ)  
**Subject:** RE: USA v. Danny Wise

Hi (b)(6)(b)(7)(C)

Our initial reaction is that you probably don't have the legal authority to destroy the records over Wise's objection--after all, he's the legal owner of the records, our right to possess the records was only temporary (because it came via a search warrant), and because the case is now over, we no longer have any need to keep holding onto them. It also seems unlikely that there's any easy way to redact the PII -- it's a huge volume of stuff, right? Given all of this, perhaps one solution would be to offer Wise a short but reasonable period of time (say, 30 days) to retrieve the records or they will be destroyed. If he doesn't bother to pick them up during that period, then you should be good to destroy them. And if he does try to pick them up, well, I'm just not sure I see an alternative.

One last thought. Have you spoken with your agency counsel about this? They might have more insight, because they're usually the experts on how property must be handled and discarded after a case is over.

-----Original Message-----

**From:** (b)(6)(b)(7)(C) (USAAZ)  
**Sent:** Tuesday, May 02, 2017 11:00 AM  
**To:** (b)(6)(b)(7)(C)  
**Subject:** RE: USA v. Danny Wise

-----Original Message-----

**From:** (b)(6)(b)(7)(C)  
**Sent:** Friday, April 28, 2017 10:49 AM  
**To:** (b)(6)(b)(7)(C)  
**Cc:** (b)(6)(b)(7)(C)  
**Subject:** RE: USA v. Danny Wise

Good morning,

I have come full circle on this matter. I mailed a letter to Wise and he responded. He wants these documents back.

I tried very hard to get Scottsdale PD or the bankruptcy trustee to take the documents back but no one wants them. I do not feel comfortable returning the documents knowing they contain PII.

We no longer wish to maintain these records but Wise has been pretty adamant about having them returned. I am hoping your office will be able to assist/direct us on how we should proceed.

Thank you,



[REDACTED] (b)(6);(b)(7)(C)

Thank you for your response. Should we destroy the evidence we currently have in our possession? ✓

[REDACTED]

Sent from my iPhone

On Mar 6, 2015, at 3:09 PM, [REDACTED] wrote:

Hi, [REDACTED]

We actually ended up dismissing the charges (without prejudice) because it's now very likely that his 35-year state sentence will be affirmed and he'll remain in prison for the rest of his life. If the state sentence somehow gets overturned, we'll have the opportunity to reindict.

Thanks again for your help with the case, [REDACTED] (b)(6);(b)(7)(C)

**Woodland, Tiffanie M - Washington, DC**

---

**From:** [REDACTED]  
**Sent:** Wednesday, May 10, 2017 8:15 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** USPS Request

Good afternoon Trustee [REDACTED] As we discussed on the phone, can you please prepare a letter of your requested final disposition method of the documents currently in the possession of the US Postal Inspection Service (USPIS) per U.S. Bankruptcy Court Order dated June 16, 2014. The USPIS is requesting advisement by the documents' owner of record per Chapter 7 litigation for an approved disposition method of either returning them to you or forfeiting interest in them and permanently releasing them to USPIS for document destruction by USPIS. ✓

Thanks

[REDACTED]  
Postal Inspector Team Leader  
Phoenix Division  
111 W Monroe St Ste 900  
Phoenix AZ 85003

[REDACTED]

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6)(b)(7)(C)  
**Sent:** Thursday, May 11, 2017 1:52 PM  
**To:** (b)(6)(b)(7)(C)  
**Cc:** (b)(6)(b)(7)(C) Phoenix, AZ  
**Subject:** RE: USPIS Request  
**Attachments:** letter to (b)(6)(b)(7)(C) Danny Wise 15-15620 and 15-15625.pdf

My email to you bounced back due to size. I am going to send the two attachments separately. Please confirm receipt of each email.

Email 1

---

(b)(6)(b)(7)(C)  
PO Box 6729  
Chandler, Az 85246  
(b)(6)(b)(7)(C)

**This message wasn't delivered to anyone because it's too large. The limit is 30 MB. This message is 31 MB.**

**From:** (b)(6)(b)(7)(C)  
**Sent:** Thursday, May 11, 2017 9:57 AM  
**To:** (b)(6)(b)(7)(C)  
**Cc:** (b)(6)(b)(7)(C) Phoenix, AZ  
**Subject:** RE: USPIS Request

Mr. (b)(6)(b)(7)(C)  
Please see attached. Let me know if you have any questions. I hope this helps. Thanks. (b)(6)(b)(7)(C)

---

(b)(6)(b)(7)(C)  
PO Box 6729  
Chandler, Az 85246  
(b)(6)(b)(7)(C)

**From:** (b)(6)(b)(7)(C)  
**Sent:** Wednesday, May 10, 2017 5:15 PM  
**To:** (b)(6)(b)(7)(C)  
**Cc:** (b)(6)(b)(7)(C)  
**Subject:** USPIS Request

-----Original Message-----

From: (b)(6);(b)(7)(C) (USAAZ) [mailto:Dominic.Lanza@usdoj.gov]  
Sent: Thursday, January 19, 2017 9:01 AM  
To: (b)(6);(b)(7)(C) - Phoenix, AZ  
Cc: (b)(6);(b)(7)(C) (USAAZ)  
Subject: RE: USA v. Danny Wise

I'd recommend mailing that letter to him. If he chooses not to respond, then you can destroy the documents per your usual procedure. And if he asks for the documents, we can then revisit what to do about the PII. ✓

-----Original Message-----

From: (b)(6);(b)(7)(C) - Phoenix, AZ (b)(6);(b)(7)(C)  
Sent: Thursday, January 19, 2017 8:56 AM  
To: (b)(6);(b)(7)(C)  
Cc: (b)(6);(b)(7)(C)  
Subject: RE: USA v. Danny Wise

As an update, Wise's Motion for Post-Conviction Relief (Rule 32) was denied. See attached Ruling if you are interested. ✓

We currently maintain 243 banker's boxes of documents in this matter which were given to us voluntarily by a Bankruptcy trustee. The boxes contain PII data for previous clients of Mr. Wise, which we would typically refrain from returning to a defendant. ✓

What is your recommendation on how we handle the return/destruction of boxes of documents?

Typically, when we hold evidence, and a case has been adjudicated, we mail a letter to the defendant informing him he has 30 days to obtain his property or appoint someone to do so for him if he is incarcerated, otherwise it will be destroyed. In this case, the voluminous amount of potential PII data contained in the documents is a concern.

Thanks for your guidance.

(b)(6);(b)(7)(C)

-----Original Message-----

From: (b)(6);(b)(7)(C)  
Sent: Thursday, March 12, 2015 1:55 PM  
To: (b)(6);(b)(7)(C) - Phoenix, AZ  
Cc: (b)(6);(b)(7)(C) (USAAZ)  
Subject: RE: USA v. Danny Wise

Please hold on to them for the time being. In the waiver/dismissal agreement, we agreed to "retain or return to defendant all records currently being held by the United States in the Federal Case until the direct appeal in the State Case is concluded." His state appeal is still pending, so it's too early to destroy anything. ✓

-----Original Message-----

From: (b)(6);(b)(7)(C)  
Sent: Thursday, March 12, 2015 9:50 AM  
To: (b)(6);(b)(7)(C) (USAAZ)  
Cc: (b)(6);(b)(7)(C) (USAAZ)  
Subject: Re: USA v. Danny Wise

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6)(b)(7)(C)  
**Sent:** Thursday, June 01, 2017 6:08 PM  
**To:** (b)(6)(b)(7)(C) - Phoenix, AZ  
**Subject:** FW: 575247\_675-0

-----Original Message-----

**From:** (b)(6)(b)(7)(C)  
**Sent:** Friday, May 12, 2017 8:15 AM  
**To:** (b)(6)(b)(7)(C)  
**Cc:** (b)(6)(b)(7)(C)  
**Subject:** RE: 575247\_675-0

Not really. It is a motion I would file mid-case. My case is closed. I am going to have (b)(6)(b)(7)(C) call you and perhaps he can explain it better than me. He is the attorney on the case for me and spoke and arranged for the turnover of the documents to you.

(b)(6)(b)(7)(C)

---

(b)(6)(b)(7)(C)  
PO Box 6729  
Chandler, Az 85246  
(b)(6)(b)(7)(C)

-----Original Message-----

**From:** (b)(6)(b)(7)(C)  
**Sent:** Thursday, May 11, 2017 9:48 PM  
**To:** (b)(6)(b)(7)(C)  
**Subject:** 575247\_675-0

Is something similar to the attached even an option with Wise's bankruptcy case?

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 01, 2017 6:36 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** RE: Contact info for trustee's attorney

Thanks. I'll let you know what I find out.

-----Original Message-----

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 01, 2017 3:35 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** Contact info for trustee's attorney

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) is the attorney for the trustee (b)(6);(b)(7)(C). I believe the trustee had some apprehension because she could not afford to have the documents destroyed should they go back to being in her possession. Please note, my agency has no problem paying for the destruction of the documents should the Bankruptcy court issue an Order instructing the destruction of the documents.

Thank you,

(b)(6);(b)(7)(C)

-----Original Message-----

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 12, 2017 8:15 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** RE: 575247\_675-0

Not really. It is a motion I would file mid-case. My case is closed. I am going to have (b)(6);(b)(7)(C) call you and perhaps he can explain it better than me. He is the attorney on the case for me and spoke and arranged for the turnover of the documents to you. ✓

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

P.O. Box 6729  
Chandler, Az 85246

(b)(6)

-----Original Message-----

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, May 11, 2017 9:48 PM  
**To:** (b)(6);(b)(7)(C)

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, June 06, 2017 1:22 PM  
**To:** (b)(6);(b)(7)(C) Phoenix, AZ  
**Cc:**  
**Subject:** RE: Contact info for trustee's attorney

FYI, I had a lengthy call with the trustee's attorney today, and the bankruptcy path does not look promising. I can fill you in with the details if you want to schedule a quick call (I'm free this afternoon). Any luck with Scottsdale?

-----Original Message-----

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, June 01, 2017 3:35 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** Contact info for trustee's attorney

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) is the attorney for the trustee (b)(6);(b)(7)(C). I believe the trustee had some apprehension because she could not afford to have the documents destroyed should they go back to being in her possession. Please note, my agency has no problem paying for the destruction of the documents should the Bankruptcy court issue an Order instructing the destruction of the documents.

Thank you,

(b)(6);(b)(7)(C)

-----Original Message-----

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, May 12, 2017 8:15 AM  
**To:** (b)(6);(b)(7)(C)  
**Cc:**  
**Subject:** RE: 575247\_675-0

Not really. It is a motion I would file mid-case. My case is closed. I am going to have (b)(6);(b)(7)(C) call you and perhaps he can explain it better than me. He is the attorney on the case for me and spoke and arranged for the turnover of the documents to you.

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)

PO Box 6729  
Chandler, Az 85246

(b)(6);(b)(7)(C)

-----Original Message-----

**From:** (b)(6);(b)(7)(C)

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, June 06, 2017 5:25 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** RE: Contact info for trustee's attorney

Sure.

-----Original Message-----

**From:** (b)(6);(b)(7)(C)  
**Sent:** Tuesday, June 06, 2017 2:23 PM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** Re: Contact info for trustee's attorney

My AIC said he hasn't heard back from Scottsdale yet. I am at a conference in Atlanta this week. Do you mind if I schedule a call with you once we hear back from Scottsdale PD so we can go over both of our efforts at once?

Thanks

(b)(6);(b)(7)(C)

Sent from my iPhone

> On Jun 6, 2017, at 1:22 PM, (b)(6);(b)(7)(C) wrote:

>

> FYI, I had a lengthy call with the trustee's attorney today, and the bankruptcy path does not look promising. I can fill you in with the details if you want to schedule a quick call (I'm free this afternoon). Any luck with Scottsdale?

>

> -----Original Message-----

> **From:** (b)(6);(b)(7)(C)  
> **Sent:** Thursday, June 01, 2017 3:35 PM  
> **To:** (b)(6);(b)(7)(C)  
> **Subject:** Contact info for trustee's attorney

>

> (b)(6);(b)(7)(C)

>

> (b)(6);(b)(7)(C) is the attorney for the trustee (b)(6);(b)(7)(C). I believe the trustee had some apprehension because she could not afford to have the documents destroyed should they go back to being in her possession. Please note, my agency has no problem paying for the destruction of the documents should the Bankruptcy court issue an Order instructing the destruction of the documents.

>

> Thank you,

> (b)(6);(b)(7)(C)

>

> -----Original Message-----

> **From:** (b)(6);(b)(7)(C)  
> **Sent:** Friday, May 12, 2017 8:15 AM  
> **To:** (b)(6);(b)(7)(C)  
> **Cc:** (b)(6);(b)(7)(C)  
> **Subject:** RE: 575247\_675-0



>  
> Not really. It is a motion I would file mid-case. My case is closed. I am going to have (b)(6)(b)(7)(C) call you and perhaps he can explain it better than me. He is the attorney on the case for me and spoke and arranged for the turnover of the documents to you.

> (b)(6)(b)(7)(C)

>

>

>

> (b)(6)(b)(7)(C)

> PO Box 6729

> Chandler, Az 85246

> (b)(6)(b)(7)(C)

>

>

>

> -----Original Message-----

> From: (b)(6)(b)(7)(C)

> Sent: Thursday, May 11, 2017 9:48 PM

> To: (b)(6)(b)(7)(C)

> Subject: 575247\_675-0

>

>

> Is something similar to the attached even an option with Wise's bankruptcy case?

>

>

>

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Thursday, May 18, 2017 7:33 PM  
**To:** (b)(6);(b)(7)(C)  
**Cc:**  
**Subject:** FW: USA v. Danny Wise  
**Attachments:** WiseAZAppealRuling.pdf; Wise\_TrusteeLetter.pdf

(b)(6);(b)(7)(C)  
AUSA [REDACTED] we are still researching our earlier conversation and will get back with you next week.

Other items I have researched or received.

**Attachment 1 - WiseAZAppealRuling.pdf**

Page 5 Footnote 5 - AZ Court of Appeals Decision At the time of his arrest in May 2009, Wise had been forced into an involuntary bankruptcy, and all of his property and assets were seized by the Trustee and placed in receivership for liquidation.

**Attachment 2 - Wise\_TrusteeLetter.pdf**

- from Bankruptcy Trustee

Pursuant to Bankruptcy Court's Order dated June 16, 2014, custody of the Danny Wise documents was transferred to the Department of Justice. The Order also provides that the Department of Justice shall comply with the retention requirements set forth in the US Department of Justice Handbook for Chapter 7 Trustees. ... The Whispering Winds/Danny Wise case was closed on November 1, 2016. Pursuant to the Handbook, the documents must be retained for two years and then it is my practice to shred all documents by a qualified professional firm and keep evidence of the certificate of shredding. The documents can be shredded on November 2, 2018. Since my case is closed and my duties discharged, I do not need the documents back.

(b)(6);(b)(7)(C)  
Postal Inspector Team Leader  
Phoenix Division

(b)(6)

**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6)(b)(7)(C)  
**Sent:** Thursday, June 22, 2017 6:29 PM  
**To:** (b)(6)(b)(7)(C)  
**Cc:** (b)(6)(b)(7)(C)  
**Subject:** Danny Wise Status 062217

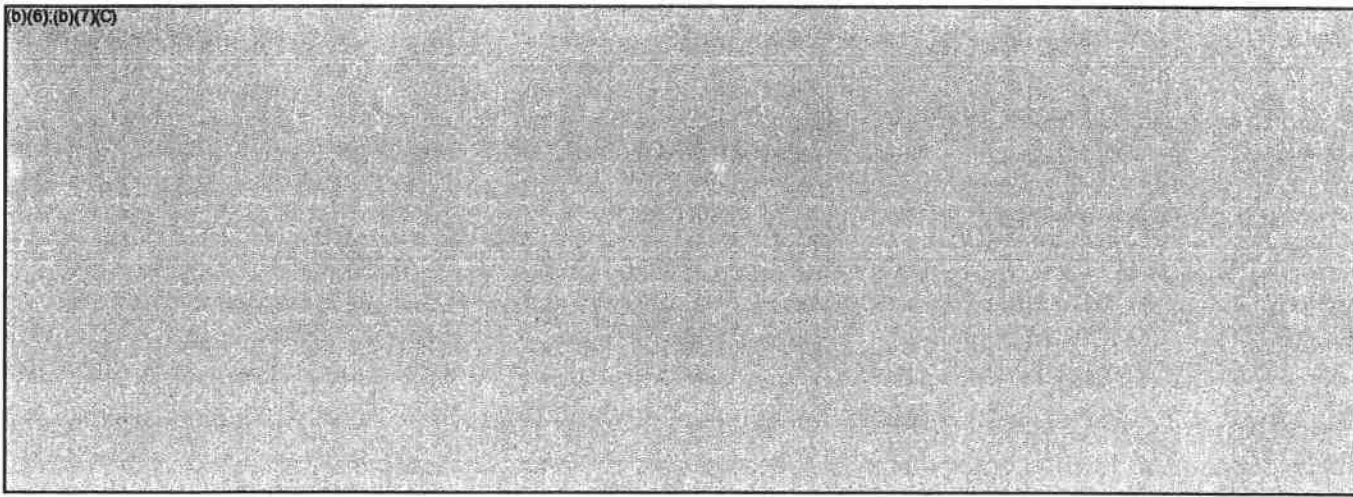
(b)(6)(b)(7)(C) we are preparing a letter addressed to Danny Wise's (b)(6) We will submit it for review through our Office of Counsel and then on to the USAO for your review/edit. As I stated on the phone, I will dedicate Postal Inspection Service resources to create a victim/client list with addresses if the US Attorney's Office is considering noticing the victims/clients prior to the release of their personal identifying information.

Below I provided one of the statements we received from a random victim I pulled from one of the boxes in question.

Thanks

(b)(6)(b)(7)(C)  
Postal Inspector Team Leader  
Phoenix Division  
(b)(6)

(b)(6)(b)(7)(C)



**Woodland, Tiffanie M - Washington, DC**

---

**From:** (b)(6);(b)(7)(C)  
**Sent:** Friday, June 23, 2017 1:59 PM  
**To:** (b)(6);(b)(7)(C) - Phoenix, AZ  
**Subject:** RE: Danny Wise Status 062217

I'm not sure we need to send a letter to the (b)(6) or Wise as we do not have an authorized agent form from Wise. We have three letters from him asking us to explain how we came into possession of his records. I thought we had something from Wise indicating his (b)(6) was the authorized agent. ✓

I'm wondering if we can destroy the records based upon no authorized agent designation from your first letter. ✓

**From:** (b)(6);(b)(7)(C) - Phoenix, AZ  
**Sent:** Friday, June 23, 2017 10:55 AM  
**To:** (b)(6);(b)(7)(C)  
**Subject:** Fwd: Danny Wise Status 062217

This sounds great if they are willing to do the paperwork. If they are going this route why are we going to draft a letter to anyone? The USAO should just file the motion and notice the defendant. Seems like our letter to the (b)(6) would just muddy the water again. ✓

Sent from my iPhone

Begin forwarded message:

**From:** (b)(6);(b)(7)(C)  
**Date:** June 23, 2017 at 12:47:11 PM CDT  
**To:** (b)(6);(b)(7)(C)  
**Cc:** (b)(6);(b)(7)(C)  
**Subject:** RE: Danny Wise Status 062217

FYI, here are two more good cases for us. The first establishes that the government may refuse to return seized evidence at the end of case under a "derivative contraband" theory even if the government never initiated forfeiture proceedings. The second establishes that the government may invoke the "derivative contraband" theory to refuse to return business records to a white collar defendant. I am getting more and more excited about this theory's potential. ✓

1. *Sash v. United States*, 2009 WL 3007379, \*5 (S.D.N.Y. 2009) ("[Sash] appears to argue that, because the defendants have not commenced forfeiture proceedings against Sash's property, they have no defense to his 41(g) motion. This argument is meritless. There is no requirement that the government seek to forfeit Sash's property, and its decision not to do so does not 'prevent the government from being able to assert, in resistance to a Rule 41(e) motion, a limited derivative contraband theory.'" (quoting *United States v. Felici*, 208 F.3d 667, 671 (8th Cir. 2000)).

2. *United States v. Thornberg*, 2013 WL 3364369, \*2-3 (D.S.D. 2013) (denying Rule 41(g) motion brought by white collar defendant who sought the return of paperwork that had been seized from his business, where the government opposed the motion "on the basis that the material could be used by the defendant in future business scams," because the "documents seized from defendant at the time of his arrest constitute derivative contraband which the defendant is not entitled to receive").

(b)(6)(b)(7)(C)

**Subject: Danny Wise Status 062217**

(b)(6)(b)(7)(C) we are preparing a letter addressed to Danny Wise's (b)(6)(b)(7)(C). We will submit it for review through our Office of Counsel and then on to the USAO for your review. As I stated on the phone, I will dedicate Postal Inspection Service resources to create a victim/client list with addresses if the US Attorney's Office is considering noticing the victims/clients prior to the release of their personal identifying information.

Below I provided one of the statements we received from a random victim I pulled from one of the boxes in question.

Thanks

(b)(6)(b)(7)(C)

Postal Inspector Team Leader  
Phoenix Division

(b)(6)

(b)(6)(b)(7)(C)



**PREMIER DOCUMENT SHREDDING**

2204 W. 1st Street • Tempe, AZ 85281  
PHONE 480-829-0089 • FAX 480-829-0249



Driver Wise

Date August 11, 2017

*Wise Case  
Case #*

CLIENT	NAME: <u>United States Intel Agency</u>
	ADDRESS:
	CITY: PHONE:

RATE: <u>38.00</u>	<u>190 boxes @ \$2.00 / box</u>
AMOUNT DUE: <u>38.00</u>	

CERTIFICATE OF DESTRUCTION	
Confidential Records Shredded Waste Recycled	
Boxes: <u>190</u>	Other: _____
X _____	_____
SUPERV _____	_____

PREMIER DOCUMENT SHREDDING  
2204 W 1ST ST  
TEMPE AZ 85281  
480-829-0089

Branch: 0010010563  
Gen: 001021

**Sale**

VISA



Entry Method: Swiped

Approved: Online

08/11/17

Inv#: 00000002

Total:

Batch#: 000001

12:00:23

Appr Code: 005563

\$ 380.00

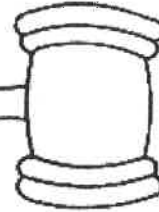
Customer Card

10000 700  
100 0000000000

# David R. Maltz & Co, Inc.

Auctioneers, Appraisers, Real Estate Brokers

[www.MaltzAuctions.com](http://www.MaltzAuctions.com)



7/18/15  
Legal  
mail

July 15, 2015

Arizona Department of Corrections  
ASPC-Yuma Cibola  
Danny Wise ADC# 286665  
PO BOX 8909  
San Luis, AZ 85349

Dear Mr. Wise:

This letter is in response to your recent correspondence regarding the inventory of the contents located at 15 West 53<sup>rd</sup> Street, Apartment 18F, New York, New York.

Please be advised that our sole purpose was to prepare an inventory list of assets that may have value to be liquidated and in no way were we ever authorized or asked to inventory the contents of drawers, closets, storage boxes, etc.

I am so sorry we could not be more helpful.

Very truly yours,

Richard B. Maltz, CAI, CES  
Vice President

cc: Theodore Wittholf via email: [TWitthoft@wclawpc.com](mailto:TWitthoft@wclawpc.com)  
Ashley Adams via email: [aadams@azwhitecollarcrime.com](mailto:aadams@azwhitecollarcrime.com)

**AUCTIONS... Your Liquidity Solution<sup>®</sup>**

1 **ASHLEY D. ADAMS, PLC**  
2 **Ashley D. Adams, 013732**  
3 **7701 E. Gray Road, Suite 107**  
4 **Scottsdale AZ 85260**  
5 **Phone: (480) 219-1366**  
6 **Facsimile: (480) 219-1451**  
7 **aadams@azwhitecollarcrime.com**  
8 **Attorney for Defendant Danny Wise**

9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE DISTRICT OF ARIZONA**

11 **United States of America,**  
12 **Plaintiff,**

13 **v.**

14 **Danny Wise,**  
15 **Defendant.**

16 **No. CR12-00788-PHX-ROS**

17 **DECLARATION OF ASHLEY D.**  
18 **ADAMS**

19 **(Defendant in Custody)**

20 1) I am Mr. Wise's attorney, and prepare this Declaration under the penalty of  
21 perjury.

22 2) Since the Court's last Order continuing the trial from February 3, 2015, the  
paralegal assigned to the case, Rose Washburn, and I, have continued to diligently review  
the 246 boxes contained in the Postal Service storage unit located at 1441 Buckeye Road in  
Phoenix, Arizona. The following is a summary of the review.

3) We visited the space on four occasions, and spent approximately 25 man hours  
going through each and every box contained at the Postal Inspector Warehouse referenced  
above. These boxes were brought to the space by law enforcement agents assigned to the



1 case, following Defendant's request that all documents in the possession of the government  
2 be made available.

3 4) The defense team reviewed approximately 250 boxes. While the team did not  
4 review every page in every box, we examined the contents of each folder, including loose  
5 papers found therein.

6 5) In the review process, we attempted to verify whether the contents of each  
7 folder within each box in fact matched the folder's label. Oftentimes, the folders contained  
8 loose documents in folders that did not appear to correspond with its respective file/label.

9 6) Most of the boxes themselves had multiple labels, from multiple sources. For  
0 example, many of the boxes bore original labels from Defendant Danny Wise, which  
1 oftentimes included a list of the contents. The boxes would then also have a label with  
2 some sort of Postal skew number, and then a separate hand written number on the outside of  
3 the box, written by what appears to be a "Sharpie." To date, the defense has not been  
14 provided with a master index or any other report which provides any information as to the  
15 numbers, or their meaning. In addition, the defense has no information regarding who  
16 labeled the boxes or when.

17 7) There is no index which indicates from where or whom the boxes were  
18 obtained. In other words, the chain of custody is in complete disarray. For example, many  
19 of the boxes appeared to be copies of documents from the SEC matter, or from the Wise  
20 entities bankruptcies. However, the boxes on their face do not indicate if they were  
21 retrieved from the bankruptcy trustee, or from the SEC. There is no index, or other  
22 markings to indicate whether the boxes were retrieved from Mr. Wise's offices, or Mr.

1 Wise's storage unit during the respective search warrants, or whether the boxes contained  
2 copies of other documents.

3 8) To date, no index has been produced which correlates the handwritten numbers  
4 on the outside of the boxes to the source of the documents.

5 9) The defense team also found many mismarked files. While many of the boxes  
6 had various labels on the outside, oftentimes, files were found in boxes that were not listed  
7 on the label. The folder files were not marked so as to determine in which box number they  
8 originated.

9 10) As an example, in one file, marked "client files/tax returns", the defense team  
0 found various notes prepared by Mr. Wise, which appear to be related to various real estate  
1 "deals" and/or other investments. The notes were clearly not related to any of the clients  
2 listed on the box's label. Upon information and belief, these notes were never disclosed by  
3 the government in discovery.<sup>1</sup>

14 11) Some files appeared untouched, as if they had never been copied, or opened.  
15 Others were in complete disarray.

16 12) I have not yet discussed with Mr. Wise the complete findings set forth above,  
17 but will during our next phone call, or when I travel to Yuma next week.

18 13) One of the quests of the defense team was to attempt to recover  
19 approximately 16 boxes which were reviewed by Simon Consulting, the government's  
20

---

21 <sup>1</sup> The defense team has not finished reviewing all of the discovery provided by the  
22 government.

1 forensic accounting expert. The defense team only found approximately 9 of the boxes.  
2 These boxes will need to be reviewed by James Sell, Mr. Wise's forensic accountant expert.  
3 They are in the process of being copied.

4 14) On October 15, 2014, Mr. Wise's computer forensic expert, Loehrs &  
5 Associates, attempted to forensically image Mr. Wise's computers and servers which are  
6 being housed at Scottsdale Police Department. Ms. Loehrs advised undersigned that they  
7 were not able to image the server, and it would not "boot up". Counsel is in the process of  
8 attempting to locate other forensic images which may have been taken during the  
9 bankruptcy, state case, or SEC matters.

0 15) The government and defendant are also in the process of negotiating a  
1 possible plea and/or a dismissal without prejudice if defendant will agree to waive the  
2 applicable statute of limitation. However, the parties need additional time to determine if  
3 they are able to reach a resolution. I am scheduled to travel to Yuma next week, now that  
14 review of the warehouse documents has been completed, to discuss all options with Mr.  
15 Wise. As this Court is aware, Mr. Wise is in state custody.

16 16) Further, I have consulted with Peter Sexton, AUSA, who has no objection to a  
17 continuance.

18 Defendant does not make this motion for reasons of delay, but instead in the interest of  
19 justice. Excludable delay under 18 U.S.C. § 3161(h)(7)(B)(i) may occur as a result of this  
20 motion or an order based thereon.

21 //

22 //

1 RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of January, 2015.

2 ASHLEY D. ADAMS, PLC

3  
4 By: s/Ashley D. Adams

Ashley D. Adams

5 Attorney for Defendant Daniel Wise

6 CERTIFICATE OF SERVICE

7 I hereby certify that on January 9, 2014, I electronically transmitted foregoing document  
8 to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of  
Electronic Filing to the following CM/ ECF registrants:

9 HONORABLE ROSLYN O. SILVER

10 United States District Court

Sandra Day O'Connor U.S. Courthouse, Suite 624

11 401 W. Washington Street, SPC 59

Phoenix, AZ 85003

12 silver\_chambers@azd.uscourts.gov

13 Peter Sexton, Esq.

Dominic Lanza, Esq.

14 Assistant U.S. Attorney

2 Renaissance Square

15 40 N. Central Avenue, Suite 1200

Phoenix, AZ 85003

16 Peter.sexton@usdoj.gov

Dominic.lanza@usdoj.gov

17 s/ Mali Evans

18 Mali Evans

19 Legal Assistant to Ashley D. Adams